



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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*Director, Center for Families,
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May 4, 2010

Name of Tribal Leader
Address

Re: Letter of Support and Explanation of Lack of Tribally-Specific Data

Dear XX:

On behalf of the Administrative Office of the Courts, Center for Families, Children & the Courts (CFCC), I am pleased to offer this letter of support to the Name of Tribe in support of your Coordinated Tribal Assistance Solicitation (CTAS)'s grant application to the U.S. Department of Justice (DOJ).

The CFCC is dedicated to improving the quality of justice and services to meet the diverse needs of children, youth, families, and self-represented litigants in the California courts. Working closely with the Judicial Council's Family and Juvenile Law Advisory Committee, Collaborative Justice Courts Advisory Committee, Blue Ribbon Commission on Children in Foster Care, the council's Task Forces on Self-Represented Litigants, Criminal Justice Collaboration on Mental Health Issues, Elkins Family Law Task Force, and its Domestic Violence Practice and Procedure Task Force, CFCC provides courts and court-connected agencies statewide with legal and court service, research, educational and training opportunities, print and electronic publications and financial assistance. CFCC has a Tribal Projects Unit which assists the judicial branch with the development of policies, positions, and programs to ensure the highest quality of justice and service for California's Native American communities in cases relating to Indian Child Welfare Act, domestic violence, dating violence, sexual assault, and stalking.

The new Coordinated Tribal Assistance Solicitation represents a significant improvement for California Native American Tribes insofar as it allows tribes a great deal of flexibility in tailoring their grant applicants to their own individual needs and circumstances. This letter seeks to comment on a significant challenge that currently remains unaddressed: The need to produce tribal specific data on crime rates and other social problems. The Solicitation for 2010 asks tribes to provide data in the form of counts of incidents, calls for assistance, arrests, and other statistical evidence of crime patterns for juvenile and adult offenders.

While individual tribes must of course speak to their own circumstance, it has been our experience that most do not have the systems or resources to collect this data on their own. For most tribes in California, local law enforcement such as the County Sheriff would be the only potential source of such data. The reason for this is that California is covered by a federal statute known as Public Law 280 (P.L. 280). This legislation, enacted in 1953, transferred jurisdiction over felony and misdemeanor violations from the federal to the state government in five states.

P.L. 280 was passed without tribal consultation and lacked the fiscal appropriation necessary for the affected state agencies to comply. While the hope was that this jurisdictional transfer would ensure that the administration of public safety services and criminal justice administration in California's Indian Country would be equivalent to the same legal processes in the rest of the state, the lack of any additional resources to address Indian Country needs has resulted in the jurisdictional transfer being an unfunded mandate for the State, with the consequent neglect of the issues that unfunded mandates often generate.

California's law enforcement agencies are first responders to calls for assistance on tribal lands, and as such, report crime-related data to the state of California. When reporting crime data including Indian Country, however, law enforcement agencies report only aggregate numbers. They are not required by statute to report data on ethnicity or tribal affiliation, or even whether calls come from Indian reservations or other Indian lands. There is no provision or funding for a system within state agencies to track Native American crime and victimization data.

Data sources that tribes or other entities would typically consult in preparing grant applications are unavailable or insufficient for California tribes. A National Institute of Justice (NIJ) publication, *Public Law 280 and Law Enforcement in Indian Country—Research Priorities* (<http://www.ncjrs.gov/pdffiles1/nij/209839.pdf>), focused on gaps in data related to crime and law enforcement on P.L. 280 reservations. It points out that most tribes in P.L. 280 jurisdictions do not report crime data to the Bureau of Indian Affairs' (BIA) Crime Analysis Division, and even if they do, statistics available from the BIA may not distinguish between P.L. 280 and non-P.L. 280 jurisdictions.

This observation was confirmed by the California Administrative Office of the Courts, Center for Families, Children & the Courts in a 2009 project: The Native American Communities Justice Project— Beginning the Dialogue: Domestic Violence, Sexual Assault, Stalking, and Teen Dating Violence. That effort brought together a substantial cross section of the Native American community in California with the California court system to discuss issues of family violence. The Final Report issued by the project stated:

Collecting data on criminal justice issues in Indian country is generally a problem; however, in California (and many other Public Law 280 states) there are additional obstacles. Because the first responders to calls from a reservation dealing with family violence are usually county deputy sheriffs, it is within county sheriff's departments that reservation level data can be found. Many sheriffs in the state, however, do not keep separate data at the reservation level. Instead data is often lumped together into a larger "beat" that includes surrounding non-Indian communities.

This lack of data specific to Native Americans has at least two serious implications: (1) it makes the magnitude of the problem difficult to assess because it is not documented; and (2) it creates obstacles for tribes to securing funding to address family violence issues because most grant proposals require that the potential grantee provide data to document the problem.

The NIJ report further states that no quantitative studies of the impact of P.L. 280 on tribes and law enforcement exist. Regarding California tribes specifically, the authors note that they "tried with limited success to construct usable crime data for California Indian country. County-level data represent the best source, but several county sheriffs' offices claim that crimes committed in Indian country often are not reported." Additionally, while data are available on jails in Indian Country at the national level, all of the study sites are located outside of California. While national data may be instructive in terms of indicating general differences between Native Americans and the general population, it may not reflect the uniqueness of tribes in California compared to those in other states or the differences among tribes within California.

Other common sources of data to support grant applications include the National Crime Victimization Survey and arrest data from the California Department of Justice Criminal Justice, both of which report data by the race/ethnicity of the victim and the offender. However, both report a very general race/ethnicity breakdown—White, Black, Hispanic, and Other—meaning that data are not available for the Native American population specifically. This may be a particular limitation in identifying issues among the urban Native American population who do not live on reservations.

In conclusion, we support the CTAS grant application being submitted to the DOJ, and we welcome the opportunity to work with your tribe to improve access to justice by Native Americans.

Sincerely,

Diane Nunn, Director
Center for Families, Children & the Courts